

**IDAHO REAL ESTATE COMMISSION
MEETING MINUTES**

May 18, 2006

Pursuant to notice given, the May meeting of the Idaho Real Estate Commission (Commission) was held in the Commission office at 633 N. Fourth Street, Boise, Idaho, on May 18, 2006, at 8:30 a.m.

Members Present:

Ron Clawson, Chair, Idaho Falls
Pam Trees, Vice Chair, Lewiston
Steve Kohntopp, Member, Twin Falls
Andy Enrico, Member, Boise
Comprising a quorum of the Commission.

Staff Present:

Donna M. Jones, Executive Director
Jennifer Bonilla, Admin. Asst.

Staff Present for a portion of the Meeting:

Charlie Hendrix, Fiscal Supervisor
Terry Ruetters, Enforcement Chief
Neal Bernklau, Licensing Supervisor
Karen Seay, Education Director

Licensees Present for CE Credit

Melanie Brassfield, McCall
Donna Sandeen, Boise

Others Present:

Kim Coster, Commission Counsel
Chuck Byers, Pioneer Real Estate School, Boise
Kirtlan Naylor, Staff Counsel
Stephen Beer, Attorney
Shontel Conlin, Boise
Maya Pavane, Boise

Call to Order: The meeting of the Commission was called to order by Chair Clawson at 8:30 a.m., Thursday, May 18, 2006.

Approval of Agenda: A motion was made by Mr. Enrico, seconded by Mr. Kohntopp, to approve the agenda of the May 18, 2006 meeting. Motion carried.

Approval of Meeting Minutes: A motion was made by Mr. Enrico, seconded by Mr. Kohntopp, to approve the April 20, 2006, meeting minutes, as written. Motion carried.

Salesperson and Broker Licenses Issued: Members reviewed the salesperson and broker licenses issued for the month of April 2006; a copy of which has been made part of these minutes. A motion was made by Mr. Kohntopp, and seconded by Mr. Enrico, to ratify the salesperson and broker licenses issued for the month of April 2006. Motion carried.

Financial Reports: Ms. Hendrix joined the meeting and presented the April 2006 Financial Reports to Commission members for their review; copies of which are on file at the Commission office.

After review and discussion, a motion was made by Mr. Kohntopp, and seconded by Ms. Trees, to approve the April 2006, Financial Reports. Motion carried.

Licensure:

Mr. Bernklau was welcomed to the meeting.

Executive Session: In accordance with section 67-2345 (1) (d) & (f), Idaho Code, a motion was made by Ms. Trees, seconded by Mr. Enrico, to adjourn to executive session to review special request licensure files. Motion carried.

Regular Session: There being no further purpose for an executive session, a motion was made by Ms. Trees, seconded by Mr. Enrico, to adjourn the executive session. Motion carried.

Licensee Status Reports: Members reviewed the licensee status reports; copies of which are on file at the Commission office:

- FY05-FY06 Analysis of Active & Inactive License Base: Licenses continue to increase
- On-Line Renewal Reports: 209 renewals online
- 325 fingerprints processed last month.

A motion was made by Ms. Trees, seconded by Mr. Enrico, directing Ms. Coster or Mr. Bernklau, to reply to the request regarding Felony Exemption #06-016 that information provided by the applicant was reviewed by members and the statutory factors were applied. Motion carried.

Special Considerations:

Special Consideration #06-022: Request to Waive 54-2012(1) (f), Felony Exemption. Following discussion and review of the documents submitted, a motion was made by Ms. Trees, seconded by Mr. Enrico, to grant the request for felony exemption. Motion carried.

Special Consideration #06-023: Request to Waive 54-2012(2)(a) Two (2) Year Experience. Following discussion and review of the documents submitted, a motion was made by Mr. Kohntopp, seconded by Mr. Enrico, to deny the request for special consideration. Motion carried.

Special Consideration #06-024: Request to Waive 54-2018(3) Late Renewal Time. Following discussion and review of the documents submitted, a motion was made by Mr. Enrico, seconded by Ms. Trees, to deny the request for special consideration. Motion carried.

Enforcement: Mr. Ruettgers was welcomed to the meeting.

Executive Session: In accordance with section 67-2345 (1) (d) & (f), Idaho Code, a motion was made by Ms. Trees, seconded by Mr. Enrico, to adjourn to executive session to review special request licensure files. Motion carried.

Regular Session: There being no further purpose for an executive session, a motion was made by Mr. Kohntopp, seconded by Mr. Enrico, to adjourn the executive session. Motion carried.

Probable Cause Memo #06-07000: A motion was made by Mr. Enrico, seconded by Ms. Trees, that the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058 (1), was reviewed and the facts are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Probable Cause Memo #05-43000, 05-43001, 05-43002: A motion was made by Ms. Trees, seconded by Mr. Kohntopp, that the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058 (1), was reviewed and the facts are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Probable Cause Memo #05-33200, 05-33201, 05-33202: A motion was made by Mr. Kohntopp, seconded by Mr. Enrico, that the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058 (1), was reviewed and the facts are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Probable Cause Memo #06-11100: A motion was made by Mr. Enrico, seconded by Mr. Kohntopp, that the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058 (1), was reviewed and the facts are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Chairman Clawson recused himself from Probable Cause Memo #05-33200, 05-33201, 05-33202 and left the room.

Mr. Ruettgers provided the Complaint Summary report for members' review; copy of which is on file at the Commission office.

- **Voluntary License Surrender-Lily Finch:** a motion was made by Mr. Enrico, seconded by Ms. Trees, to ratify Ms. Lily Finch's Voluntary License Surrender. Motion carried.
- **New Hire:** Tanya Schuler has been hired as Enforcement Department inspector. Mr. Ruettgers reported that he will begin interviewing for an Investigator in the near future.

Executive Session: In accordance with section 67-2345 (1) (d) & (f), Idaho Code, a motion was made by Mr. Kohntopp, seconded by Ms. Trees, to adjourn to executive session to review special request licensure files. Motion carried.

Regular Session: There being no further purpose for an executive session, a motion was made by Ms. Trees, seconded by Mr. Enrico, to adjourn the executive session. Motion carried.

Case of Staff vs. Shontel Conlin-Mitigation Hearing In consideration of the facts and evidence presented, a motion was made by Mr. Enrico, seconded by Ms. Trees, to approve without exception, the Stipulation entered by Shontel Conlin and the Staff, and that the "Final Order" for disciplinary actions against Ms. Conlin be as follows

- 1) That Shontel Conlin be issued a formal reprimand.
- 2) That Shontel Conlin license be revoked. The revocation shall be withheld and Ms. Conlin shall keep her salesperson's license upon the following terms and conditions:
 - a) That Shontel Conlin shall not violate any of the terms and conditions of probation granted in Case No. M-0504781, and
 - b) In the event the court finds Shontel Conlin to be in violation of the terms of probation, Ms. Conlin's real estate license shall be revoked automatically, immediately and without further proceedings before the Commission.

- c) In the event Shontel Conlin commits any other violation of the Idaho Real Estate License Law, the Staff shall notify the Commission and Ms. Conlin, and have the matter set for hearing before the Commission to determine whether Ms. Conlin's license should be revoked, or whether the revocation may continue to be withheld upon the same or other terms and conditions.

3) That no fine is imposed.

4) No costs or attorney fees are assessed for the proceedings.

Staff is directed to write a letter to Ms. Conlin's Probation Officer requesting the Commission be notified of any probation violations.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Shelly J. Wilde (Ex-Parte) In consideration of the facts and evidence presented, a motion was made by Ms. Trees, seconded by Mr. Enrico, to accept without exception, the Stipulation which had been agreed to by Shelly J. Wilde and that the "Final Order" for disciplinary actions against Ms. Wilde be as follows:

1) That Shelly J. Wilde shall be issued a formal reprimand.

2) That Shelly J. Wilde pay a civil fine in the amount of Five Hundred Dollars (\$500.00) by July 27, 2006.

3) That Shelly J. Wilde pay the cost and attorney's fees incurred in the investigation/prosecution of this matter not to exceed One Hundred Twenty-Five Dollars (\$125.00) by July 27, 2006.

4) That the Commission shall be entitled, without further action otherwise required by Idaho Code Section 54-2058, to impose additional discipline to suspend Respondent's license and/or impose additional fines, costs or attorneys fees in the event the Commission determines, following notice and hearing before the Commission, that Respondent has failed to timely comply with the Commission's Order entered pursuant to this Stipulation.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Carina L. Hays (Ex-Parte) In consideration of the facts and evidence presented, a motion was made by Ms. Trees, seconded by Mr. Enrico, to accept without exception, the Stipulation which had been agreed to by Carina L. Hays and that the "Final Order" for disciplinary actions against Ms. Hays be as follows:

1) That Carina L. Hays shall be issued a formal reprimand.

2) That Carina L. Hays pay a civil fine in the amount of Five Hundred Dollars (\$500.00) by June 24, 2006.

3) That Carina L. Hays pay the cost and attorney's fees incurred in the investigation/prosecution of this matter not to exceed One Hundred Twenty-Five Dollars (\$125.00) by June 24, 2006.

4) That the Commission shall be entitled, without further action otherwise required by Idaho Code Section 54-2058, to impose additional discipline to suspend Respondent's license and/or impose additional fines, costs or attorneys fees in the event the Commission determines, following notice and hearing before the Commission, that Respondent has failed to timely comply with the Commission's Order entered pursuant to this Stipulation.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Alex R. McPherson (Ex-Parte) In consideration of the facts and evidence presented, a motion was made by Ms. Trees, seconded by Mr. Enrico, to accept without exception, the Stipulation which had been agreed to by Alex R. McPherson and that the "Final Order" for disciplinary actions against Mr. McPherson be as follows:

- 1) That Alex R. McPherson shall be issued a formal reprimand.
- 2) That Alex R. McPherson pay a civil fine in the amount Five Hundred Dollars (\$500.00) by no later than June 24, 2006.
- 3) That Alex R. McPherson pay the costs and attorney's fees, incurred in the investigation/prosecution of this matter not to exceed One Hundred Twenty-Five Dollars (\$125.00) by no later than June 24, 2006.
- 4) That the Commission shall be entitled, without further action otherwise required by Idaho Code Section 54-2058, to impose additional discipline to suspend Respondent's license and/or impose additional fines, costs or attorneys fees in the event the Commission determines, following notice and hearing before the Commission, that Respondent has failed to timely comply with the Commission's Order entered pursuant to this Stipulation.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Education and Examination: Ms. Seay was welcomed to the meeting and presented the following reports; copies of which are on file at the Commission office:

- **Education Council:** The Education Council would like to see a card or duplicate license available for licensees. Members directed Staff to research the possibility of a license card for licensees and report back with the findings at the June 2006 meeting. Ms. Trees raised the possibility of using Education monies for the expenses of holding the Commission meeting in each district since licensees may attend the Commission meeting for Continuing Education credit.
- **Instructor Development Workshop:** Positive feedback from this year's IDW. Evaluations are being compiled. Another evaluation will be mailed out Monday. A request was made to change the dates of IDW so it does not coincide with the NAR conference.
- **Post License:** there is a meeting this afternoon with BSU to begin writing the Post License curriculum.
- **Meth Awareness Taping:** The Meth Awareness taping was held last week and will be ready by July 1st for 2 hours continuing education elective.
- **Social Security Policy/Procedure:** Ms. Seay presented the Council's recommended policy changes to the Certification Policy regarding providers' handling of student social security numbers, effective immediately. A motion was made by Mr. Enrico,

seconded by Ms. Trees to adopt Council's recommended revisions to the Certification Policy. Motion carried.

- **School Audits:** Members held further discussion regarding this issue after hearing a response from the Education Council. A motion was made by Mr. Enrico, and seconded by Ms. Trees for the Education Council to reverse the April 20, 2006 Commission Meeting directive regarding School Audits. Motion carried.
- **License Examination Statistics**

The date of the June Education Council meeting has been changed to Thursday, June 22, 2006 and the Commission will meet on Friday, June 23, 2006.

Executive Director's Report: Ms. Jones presented the following report; a copy of which is on file at the Commission office

- Employee Appreciation week
- Building Purchase/Lease Update/Option to Purchase
- New Hires
- Meeting minutes online
- Fee reduction ideas: a motion was made by Ms. Trees, seconded by Mr. Enrico, that, effective July 1, 2006, or as soon as technologically possible, the Commission will no longer assess the \$15 statutory license change fee, regardless whether a new certificate is issued, and to eliminate this fee from the statute as part of the 2007 legislative packet. Discussions centered on growing Free Fund balance, the need to curb revenues, and that increased e-transactions and automation render the fee no longer necessary. Motion carried.

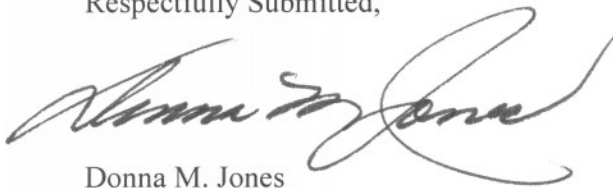
Commission's Counsel Report: Ms. Coster updated Members regarding Utah's implementation of its Tenant in Common (TIC) legislation.

- **TIC legislation.** The Utah Real Estate Commission is currently promulgating new rules to govern the subject and has hired one additional staff person to enforce the law. Utah's Commissioner Blaine Anderson provided the information. He, along with Idaho's Commissioner Kohntopp, sits on the ARELLO TIC task force. Mr. Anderson will attend a meeting with the federal Securities Exchange Commission and NAR this week, and should have information for next month.
- **Fee Reductions and the APA.** Ms. Coster also advised members regarding the statutory requirements for rulemaking, (the "APA"), and that the Governor's office last year declined to approve the license fee-reduction as an immediately effective "temporary rule." The Commission's fee reduction, which took place April 1, 2005, consequently was out of compliance with the statute for some 10 months, until the 2006 Legislature gave it a retroactive effective date. Ms. Coster will attempt to have this year's fee reduction approved by the Governor as a "temporary rule," but if such approval is not granted, the July 1, 2006 fee reduction will again be out of compliance with the statute, unless and until given a retroactive date by the 2007 legislature.
- **Building Lease/Option to Purchase.** Ms. Coster is working on revisions to Amendment to Lease Agreement to include and enforceable Option to Purchase provision. Mr. Kohntopp requested members be kept informed of that progress.

Online License Renewal Lottery Drawing: April 2006 Winner: Thad Farnham, SP23058, a salesperson from Windermere/Sun Valley in Hailey, ID.

There being no further business, Chair Clawson adjourned the meeting at 12:50 p.m.

Respectfully Submitted,



Donna M. Jones
Executive Director

Dmj: jdb

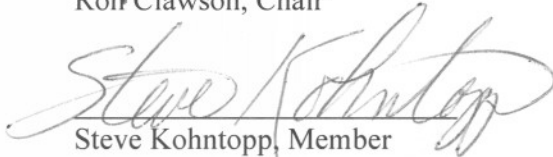
Attachments: Licenses Issued April 2006
Financial Reports
FY05-FY06 License Base Analysis
Online License Renewal Reports
Complaint Summary Report

"Final Order" – Shelly J. Wilde
"Final Order" – Carina L. Hays
"Final Order" – Alex R. McPherson
"Final Order" – Shontel Conlin

Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho on May 18, 2006, are hereby approved.



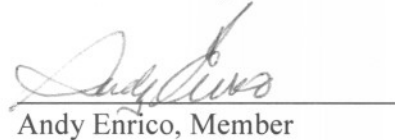
Ron Clawson, Chair



Steve Kohntopp, Member



Pamela G. Trees, Vice Chair



Andy Enrico, Member